REMARKS

In the Office Action dated October 13, 2005, claims 30-35 and 40, in the above-identified U.S. patent application were rejected. Reconsideration of the rejections is respectfully requested in view of the above amendments and the following remarks. Claims 30-39 remain in this application, claims 36-39 have been withdrawn and claim 40 has been canceled.

Claims 30-35 were rejected under 35 USC §103(a) as unpatentable over Dano in view of Luther, Heiss and Terstappen. As discussed in applicant's prior response, the claimed method for determining the prognosis of the course of a malignant disease is based on contacting a sample with an antibody or an antibody fragment thereof which binds to the epitope 52-60 of the human uPAR on both normal and tumor cells. Binding of the antibody or antigen binding fragment thereof with tumor cells in the sample indicates a tumor and gives a prognosis for the course of a malignant disease.

Luther et al. does not suggest or disclose that IIIF10 can be used as a means for the prognosis of a malignant disorder. In contrast thereto, the present invention for the first time discloses that a detection of uPAR by an antibody directed against the epitope 52-60 of the uPAR provides a prognostic means for the course of a malignant disease. While Luther et al. disclose several different antibodies directed against uPAR, Luther did not recognize that among these different antibodies only IIIF10 is suitable for giving a prognosis. As is shown in example 3 on page 21 of the present application, other antibodies directed

against uPAR are not suitable to serve as a diagnostic means for giving a prognosis. The antibodies of Luther et al. were not generated for use as a prognostic means but their intended use was to serve as selective tools for analyzing the uPAR in tumors.

Dano et al. discloses the detection of human uPAR by antibodies for the diagnosis of tumors. Dano does not suggest or disclose an antibody against epitope 52-60 of a human uPAR as in the present invention. In addition, the use of an antibody directed against uPAR as a prognostic means for the course of a malignant disease is not suggested or disclosed. Thus, Dano does not cure the above discussed deficiencies in Luther. Heiss and Terstappen do not cure the deficiencies in Luther and Dano as neither of these references suggest that tumor u-PAR and normal u-PAR can be discriminated or what epitope can be used to discriminate them. In view of the fact that Dano, Luther, Heiss and Terstappen, either individually or in combination, do not suggest that tumor u-PAR and normal u-PAR can be discriminated or what epitope can be used to discriminate them, applicants request that this rejection be withdrawn.

Claim 40 was rejected under 35 USC §112, first paragraph, as lacking an adequate written description. While applicants respectfully disagree, claim 40 has been canceled in order to advance the prosecution of the present application.

Applicants respectfully submit that claims 30-35 are now in condition for allowance. If it is believed that the application is not in condition for allowance, it

is respectfully requested that the undersigned attorney be contacted at the telephone number below.

In the event this paper is not considered to be timely filed, the Applicant respectfully petitions for an appropriate extension of time. Any fee for such an extension together with any additional fees that may be due with respect to this paper, may be charged to Counsel's Deposit Account No. 02-2135.

Respectfully submitted,

By 

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